

REMARKS

On entry of this Response, Applicants have amended claims 1, 10, 18 and 21-24 to clarify the claim languages. No new matter has been introduced. Applicants respectfully request that the foregoing amendment be entered and considered.

Claims 1-8, 10 and 12-24 are pending in the instant application, of which claims 1, 10, 18 and 21-24 are independent.

I. Claim Objection

Claim 10 stands objected because of minor informalities. (Office Action, page 2). Applicants have amended claim 10 to change “checking a media type the optical medium” to “checking a media type of the optical medium.” For the reasons set forth above, Applicants respectfully request that the objection to claim 10 be withdrawn.

II. Rejection of Claims 21-23 under 35 U.S.C. §101

Claims 21-23 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. (Office Action, page 2). The Office Action states that “Claims 21-23 now disclose **a medium comprising** of instructions, thus appear to be drawn towards software per se.” (Office Action, page 2). Applicants have amended claims 21-23 to change “the medium comprising” to “the medium storing.” Applicants respectfully submit that claims 21-23 are now directed to a computer-readable optical medium that stores instructions, which is statutory subject matter. For the reasons set forth above, Applicants respectfully request that the above 35 U.S.C. §101 of claims 21-23 be withdrawn.

III. Rejection of Claims 1, 4-8, 10 and 12-24 under 35 U.S.C. §103(b)

Claims 1, 4-8, 10 and 12-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US 5,896,454 (hereinafter “Cookson”) in view of US 2006/0259975 (hereinafter “Cohen”). (Office Action, page 3). Applicants respectfully traverse the rejection in view of the amended claims.

A. Claim 1

Amended claim 1 recites:

“A method of preventing use of an unauthorized copy of a software program residing on an optical medium, the method comprising:

providing a protection program on the optical medium, the protection program residing on the optical medium with the software program, ***the protection program:***

searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program;

determining the media type of the optical medium containing the software program; and

inhibiting execution of the software program stored on the optical medium if:

the file is missing on the optical medium, or
the optical medium has media type that
indicates that the optical medium is copied.”

Claim 1 has been amended to recite ***the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.***

Applicants respectfully submit that Cookson and Cohen, alone or in combination, fail to disclose or suggest all of the features of amended claim 1. For example, Cookson and Cohen, alone or in combination, do not disclose or suggest at least the feature of ***the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***, as required by amended claim 1.

In claim 1, the copy protection program residing on the optical medium may search the optical medium for a file containing the software program. With this feature, the claimed invention is able to check if the software program is on the optical medium.

Cookson describes that a disk contains copy-state code, such as 00 (no restriction), 01 (first generation copy only), 10 (no more copies allowed) and 11 (no copies, ever), in the lead-in section to prevent copying of digital recordings. (Cookson, FIGS. 1 and 2). Cookson, however, does not disclose or suggest ***the protection program searching for a file on the optical medium***

prior to determining a media type of the optical medium, the file containing the software program, as required by amended claim 1. There is no disclosure in Cookson that a protection program resides on the optical medium with the software program nor that the protection program searches for a file that contains the software program.

Cohen does not compensate for the deficiencies of Cookson. Cohen describes that a set of Logical Digital Signatures (LDS) are placed in predetermined locations of digital media, and an authentication module reads the LDSs to allow access to the content of the media. (Cohen, abstract). The Examiner appears to suggest that the authentication module described in Cohen corresponds to the protection program required by amended claim 1. (Office Action, page 3). In Cohen, the authentication module reads the LDSs to allow access to the content of the media. (Cohen, Figures 3 and 4). Cohen, however, does not disclose or suggest that the authentication module searches *for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*, as required by amended claim 1. The LDSs described in Cohen are not the file containing the software program, as required by amended claim 1. The authentication module in Cohen does not correspond to the protection program required by amended claim 1.

For the reasons set forth above, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 1 be withdrawn.

B. Claims 4-8

Claims 4-8 depend from independent claim 1 and, as such, incorporate the subject matter of claim 1. Accordingly, Cookson and Cohen, alone or in combination, do not disclose or suggest all of the features of claims 4-8. Therefore, Applicants respectfully submit that Cookson and Cohen do not support a valid 35 U.S.C. §103(a) rejection of claims 4-8.

C. Claim 10

Amended claim 10 recites:

“A method of authenticating an original optical medium, the method comprising:

accessing the optical medium in a compact disk-read/write (CD-R/W) drive coupled to a computer; and
identifying a protection program on an optical medium, ***the protection program:***
searching for a file on the optical medium prior to checking a media type of the optical medium, the file containing a software program to be authenticated; and
checking the media type of the optical medium once the file has been located.”

Claim 10 is amended to recite ***the protection program searching for a file on the optical medium prior to checking a media type the optical medium, the file containing a software program to be authenticated.***

Applicants respectfully submit that Cookson and Cohen, alone or in combination, do not disclose or suggest at least the following feature of amended claim 10: ***the protection program searching for a file on the optical medium prior to checking a media type the optical medium, the file containing a software program to be authenticated.*** As discussed above, Cookson and Cohen, alone or in combination, do not disclose or suggest a protection program that performs ***searching for a file on the optical medium prior to checking a media type the optical medium, the file containing a software program,*** as required by amended claim 10.

For at least the reason set forth above, Applicants submit that the combination of Cookson and Cohen does not disclose or suggest all of the features of amended claim 10. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 10 be withdrawn.

D. Claims 12-17

Claims 12-17 depend from independent claim 10 and as such, incorporate the subject matter of claim 10. Accordingly, Cookson and Cohen, alone or in combination, do not disclose or suggest all of the features of claims 12-17. Therefore, Applicants respectfully submit that Cookson and Cohen do not support a valid 35 U.S.C. §103(a) rejection of claims 12-17.

C. Claim 18

Independent claim 18 recites:

“A method of preventing execution of an unauthorized copy of a software program stored on an optical medium, the method comprising:

identifying a protection program residing on the optical medium with the software program, *the protection program:*

searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program;

determining the media type of the optical medium;

and

executing the software program stored on the optical medium if:

the file is included on the optical medium,

and

the optical medium has a media type that indicates that the optical medium is an original version.”

Claim 18 is amended to recite *the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.*

Applicants respectfully submit that Cookson and Cohen, alone or in combination, do not disclose or suggest at least the following features of amended claim 18: *the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.* As discussed above, the combination of Cookson and Cohen does not disclose or suggest a protection program that performs *searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*, as required by amended claim 18.

For at least the reasons set forth above, Applicants submit that the combination of Cookson and Cohen does not disclose or suggest all of the features of amended claim 18. Therefore, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 18 be withdrawn.

D. Claims 19 and 20

Claims 19 and 20 depend from independent claim 18 and, as such, incorporate the subject matter of claim 18. Accordingly, Cookson and Cohen, alone or in combination, do not

disclose or suggest all of the features of claims 19 and 20. Therefore, Applicants respectfully submit that Cookson and Cohen do not support a valid 35 U.S.C. §103(a) rejection of claims 19 and 20.

E. Claim 21

Independent claim 21 recites:

“A computer-readable optical medium containing instructions for preventing use of an unauthorized copy of a software program stored on the optical medium when the instructions are executed on a processing device, the medium storing:

instructions for the software program; and

instructions for a protection program that prevents the unauthorized copy of the software program from being used when the instructions for the protection program are executed on the processing device, *the protection program:*

searching for a file on an optical medium prior to determining a media type of the optical medium, the file containing the software program;

determining the media type of the optical medium containing the software program; and

inhibiting execution of the software program stored on the optical medium if:

the file is missing on the optical medium, or

the optical medium has media type that

indicates that the optical medium is copied.”

Claim 21 is amended to recite *the protection program searching for a file on an optical medium prior to determining a media type of the optical medium, the file containing the software program*.

Amended claim 21 is a medium claim that parallels amended claim 1. As discussed above in connection with claim 1, Cookson and Cohen, alone or in combination, do not disclose suggest at least the following features of amended claim 21: *the protection program searching for a file on an optical medium prior to determining a media type of the optical medium, the file containing the software program*.

For at least the reasons set forth above, the combination of Cookson and Cohen does not disclose or suggest all of the features of amended claim 21. Therefore, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 21 be withdrawn.

F. Claim 22

Amended independent claim 22 recites:

“A computer-readable optical medium containing instructions for interacting with an optical medium when the instructions are executed on a processing device, the medium storing:
instructions for a software program; and
instructions for a protection program that prevents use of an unauthorized copy of the software program, ***the protection program:***
detecting the optical medium in a compact disk-read/write (CD-R/W) drive of a computer;
searching for a file on the optical medium prior to checking a media type of the optical medium, the file containing the software program; and
checking the media type of the optical medium.”

Claim 22 is amended to recite ***the protection program ... searching for a file on the optical medium prior to checking a media type of the optical medium, the file containing the software program.***

Amended claim 22 is a medium claim that parallels amended claim 10. As discussed above in connection with claim 10, Cookson and Cohen, alone or in combination does not disclose or suggest at least the following feature of amended claim 22: ***the protection program ... searching for a file on the optical medium prior to checking a media type of the optical medium, the file containing the software program.***

For at least the reasons set forth above, Applicants submit that the combination of Cookson and Cohen does not disclose or suggest all of the features of amended claim 22. Therefore, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 22 be withdrawn.

G. Claim 23

Independent claim 23 recites:

“A computer-readable optical medium containing instructions for preventing execution of an unauthorized copy of a software program stored on the optical medium when the instructions are executed on a processing device, the medium storing:

instructions for the software program; and

instructions for a protection program that prevents the unauthorized copy of the software program from being executed when the instructions for the protection program are executed on the processing device, *the protection program:*

searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program;

determining the media type of the optical medium;

and

executing the software program stored on the optical medium if:

the file is included on the optical medium,

and

the optical medium has a media type that indicates that the optical medium is an original version.”

Claim 23 is amended to recite “*the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.*”

Amended claim 23 is a medium claim that parallels amended claim 18. As discussed above in connection with amended claim 18, Cookson and Cohen, alone or in combination, do not disclose or suggest at least the following features of amended claim 23: *the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.*

For at least the reasons set forth above, the combination of Cookson and Cohen does not disclose or suggest all of the features of amended claim 23. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 23 be withdrawn.

H. Claim 24

Amended independent claim 24 recites:

“An electronic device comprising:
a memory for storing computer program instructions,
a processor for executing the stored computer program instructions, and
a compact disk-read/write (CD-R/W) drive for receiving an optical medium containing a software program and a protection program, ***the protection program including instructions for searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***, determining the media type of the optical medium and inhibiting execution of the software program stored on the optical medium if the file is missing on the optical medium or the optical medium has media type that indicates that the optical medium is copied.

Claim 24 is amended to recite ***the protection program including instructions for searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***.

Applicants respectfully submit that Cookson and Cohen, alone or in combination, do not disclose or suggest at least the following feature of amended claim 24: ***the protection program including instructions for searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***. As discussed above, the combination of Cookson and Cohen fails to disclose or suggest the protection program required by amended claim 24.

For at least the reasons set forth above, Cookson and Cohen, alone or in combination, do not disclose or suggest all of the features of amended claim 24. Therefore, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 24 be withdrawn.

IV. Rejection of Claims 2 and 3 under 35 U.S.C. §103(a)

Claims 2 and 3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cookson in view of Cohen and further in view of US 6,480,959 (hereinafter “Granger”). (Office Action, page 9). Applicants respectfully traverse this rejection.

Claims 2 and 3 depend from claim 1 and, as such, incorporate the subject matter recited in amended claim 1.

Applicants respectfully submit that Cookson, Cohen and Granger, alone or in any reasonable combination, fail to disclose or suggest at least the following features of amended claim 1: ***the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.***

As discussed above, the combination of Cookson and Cohen does not disclose or suggest the above feature.

Granger is cited by the Examiner to provide teachings for the features required by claims 2 and 3. Granger discusses methods for protecting software applications from unauthorized distribution and use. (Granger, abstract). Granger, however, does not disclose or suggest ***the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***, as required by amended claim 1. There is no disclosure in Granger of the above protection program required by amended claim 1.

For at least the reasons set forth above, Cookson, Cohen and Granger, alone or in any reasonable combination, do not disclose or suggest all of the features of claim 1 from which claims 2 and 3 depend. Therefore, Cookson does not support a valid 35 U.S.C. §103(a) rejection of claims 2 and 3.

V. Conclusion

In light of the above amendments and arguments, Applicants respectfully submit that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. MWS-107RCE. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: December 15, 2008

Respectfully submitted,

Electronic signature: /EuiHoon Lee/
EuiHoon Lee
Registration No.: 62,375
LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant